



# Town of Sheffield

*Planning Board  
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Minutes  
August 3, 2007  
12:00 pm

Board Members Present: Rene Wood, Chairman  
Anthony Gulotta  
Margaret Martin  
Chris Tomich

Others Present: Joseph A. Kellogg, Interim Town Administrator  
Rhonda LaBombard, Assistant Town Administrator

Conference call with Attorney Ellen Callahan Doucette from Brackett & Lucas. The purpose of this call was for to discuss the application from Berkshire Fence.

Rene Wood has submitted a list of questions to Attorney Doucette before the meeting for her review.

Discussion ensued regarding the multi uses in the present Berkshire Fence building at 560 South Main Street. The building permit application did not state multi use.

Questions from Planning Board members to Attorney Doucette:

Who should be the applicant for Special Permits, the building owner or the business owner? Attorney Doucette-Either one may apply for a special permit. The building should have a special permit for multi uses and any business not allowed by right should have a special permit to operate.

Do the by-law revisions of December 2006 apply to this application? Attorney Doucette-Yes this application must apply the by-law revisions from December

2006. If the original building permit application stated multi use then the by-laws before the revision of December 2006 would apply. The Planning Board does not have authority to waive by-law requirements.

One of the businesses is a doggie daycare. Does this fall under use by right as a daycare. Attorney Doucette- No the use by right is for a human daycare and does not apply to dogs.

Does the Planning Board have any reason to care about the building permit or certificate of occupancy (CO)? Attorney Doucette – No the Planning Board has no jurisdiction over building permits. The building permit application was reviewed for a reference for dates and indicated uses. The issue regarding no CO should be raised at the special permit public hearing but the board may not base their decision on not having a CO. It is not uncommon for board's to call the applicant on this issue but not grounds to deny the application.

Can all the multi uses for the building be included on one application for a special permit? Attorney Doucette- Yes they can all be included on one permit application but the board can act independently on each use. They would all be in the same hearing but separate decisions must be issued for each use. It is not uncommon for boards to receive applications with several uses included.

Can the Planning Board accept applications that are not complete? Attorney Doucette – The Planning Board must schedule a public hearing within 65 days of the Town Clerk's stamp. At the public hearing the board can identify what is missing from the applications and continue the hearing to provide the applicant time to submit the missing materials. The usual continuation period is 30 days. The applicant should be told what is missing either in writing or verbally at a public meeting so that it is recorded in the minutes. The procedure for an incomplete application is to schedule the public hearing, open the hearing, proceed with the hearing up to the point of the missing information then continue the hearing. The entire hearing does not have to be continued if only one piece of information is missing. The board has the right to close the hearing, deliberate and deny any permits if the requested information has not been received in a timely fashion.

Discussion ensued regarding updating the application form. Attorney Doucette – the current application requires more that many towns require. A document explaining how to apply for a special permit may be added.

Are there any particular red flags with the application from Berkshire Fence? Attorney Doucette – No but the new by-law revisions will apply to this application. Discussion ensued on zoning freeze, which would not apply to this application.

What is Attorney Doucette's opinion on the definition of the sign by-law?  
Attorney Doucette – A display of merchandise is not a sign. Merchants may display merchandise outside their place of business.

The conference call ended at 12:55 pm.

The application from Berkshire Fence was accepted and signed and the hearing was scheduled for September 13, 2007 at 8 pm.

The meeting adjourned at 1:10 pm

Respectfully submitted:

Rhonda LaBombard  
Assistant to Planning Board